

GMA Update: Issues to Consider When Reviewing and Evaluating Critical Areas Regulations and Natural Resource Lands Designations

Growth Management Services at the Washington State Department of Community, Trade and Economic Development (CTED) has prepared this list of questions with assistance from state agencies that review and comment on regulations to protect critical areas and designate natural resource lands of long-term commercial significance. Its purpose is to provide technical assistance to Washington's ten counties and the cities within them that are planning only for critical areas and resource lands under the Growth Management Act (GMA) in meeting the update requirement in RCW 36.70A.130(1). This statute requires these cities and counties to review, evaluate, and, if necessary, revise their regulations to protect critical areas and designate natural resource lands of long-term commercial significance. Each county's deadline for any needed changes is listed in RCW 36.70A.130.

The questions below are designed to help local planners, elected officials, planning commissions, and citizens focus on the on key issues as they undertake the update process. (*Note: Italicized items are not necessarily requirements of the GMA, but some may relate to requirements of other state or federal laws*).

These questions are not an exhaustive list. CTED, with help from state agencies, has also prepared other supplemental materials, such as a checklist for development regulations (outlining the basic requirements of the GMA). Sections of the checklist deal with critical areas regulations' requirements. Other technical assistance materials also are available on CTED's Web site: www.cted.wa.gov/growth.

Please call growth management staff at CTED at (360) 725-3000 if you need further information on the Update requirement or if you have questions about the resources listed below.

General Review Issues

- Have you surveyed and identified all the types of critical areas that occur in your jurisdiction? These areas include wetlands, fish and wildlife habitat areas, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.
- Have you assembled all current and relevant maps and data relating to critical areas and natural resource lands associated with your county?
- Have you reviewed your critical areas ordinance to ensure they:
 - (a) Provide designation criteria for critical areas that occur in your jurisdiction, and
 - (b) Provide protection of the functions and values of your designated critical areas?
- Have you reviewed your designations for agriculture, forest, and mineral resource lands of long-term commercial significance? Are resource lands being conserved and are there opportunities for designating new resource lands to serve future natural resource needs? Are resource lands designations consistent with the GMA?

- Has your jurisdiction distributed information on methods for citizens to participate in the review, evaluation, and revision, if necessary, of your ordinances for critical areas and natural resource lands?

Resources include:

- RCW 36.70A.020(8) and (10); RCW 36.70A.030(5), (7), (8), (9), (10), (11), and (20); RCW 36.70A.050; RCW 36.70A.060; RCW 36.70A.131; RCW 36.70A.170; RCW 36.70A.175; RCW 36.70A.177
- *Growth Management Act – Procedural Criteria for Adopting Comprehensive Plans and Development Regulations – Chapter 365-190 WAC and Chapter 365-195 WAC, 2003* (Chapter 365-190 WAC)

Best Available Science

- Have you reviewed your critical areas ordinances to see if they incorporate the best available science and special consideration for anadromous fisheries as required by RCW 36.70A.172?
- Does your ordinance identify and cite sources of the best available science including current mapping and other data as well as studies used to develop management recommendations in your critical areas regulations? This information should be included in the record compiled during the adoption of your ordinance consistent with WAC 365-195-915.

Resources include:

- RCW 36.70A.172
- *Critical Areas Assistance Handbook, Protecting Critical Areas Within the Framework of the Washington Growth Management Act*, Washington State Department of Community, Trade and Economic Development, 2003
- *Growth Management Act – Procedural Criteria for Adopting Comprehensive Plans and Development Regulations – Chapter 365-190 WAC and Chapter 365-195 WAC, 2003* (Chapter 365-195-900 through 925)
- *Citations of Best Available Science for Designating and Protection Critical Areas*, Washington State Department of Community, Trade and Economic Development, 2001
- *Wetlands Rating System for Eastern Washington or Wetlands Rating System for Western Washington*, Washington State Department of Ecology, 1991 and 1993
- Stream Typing (WAC 222-16-030), Washington State Department of Natural Resources
- The Priority Habitats and Species Program (PHS), Washington Department of Fish and Wildlife – www.wa.gov/wdfw/hab/phspage.htm

Ideas for Strengthening Your Regulations

Forest practices

- *Have you considered using your critical areas regulations as minimum standards for those Class IV forest practices regulated by local government? (See RCW 76.09.240.)*
- *If so, have those regulations been approved by the Washington State Department of Natural Resources for use in regulating forest practices?*

Endangered Species Act

- *Is your jurisdiction affected by an ESA 4(d) rule?*

- *If applicable, are the requirements of a 4(d) rule incorporated into your critical areas ordinance?*

Resources include:

- Washington Department of Fish and Wildlife – www.wa.gov/wdfw/hab/phspage.htm
- Governor’s Salmon Recovery Office – www.governor.wa.gov/gsro/default.htm

Monitoring

- *Does your jurisdiction have a method for monitoring how well your natural resource lands and critical areas ordinances and other implementation techniques are protecting critical areas?*
- *Does your comprehensive plan and development regulations define a process for amending your regulations as new information and data becomes available?*
- *Has your jurisdiction adopted an “adaptive management” policy and program? WAC 365-195-920 provides guidance on criteria for addressing inadequate scientific information.*

Natural hazard mitigation

- *In addition to the critical areas that are required to be designated and protected by the GMA, has your jurisdiction considered designating other hazard areas, such as wildfire/urban interface areas vulnerable to wildfires?*
- *Have you used the best available information and data to determine that regionally important public facilities (hospitals, schools, landfills, etc.) not be allowed to locate in known hazardous areas?*
- *Did you consult with your local emergency coordinator when designating critical areas ordinances?*

Resources include:

- *Optional Comprehensive Plan Element for Natural Hazard Reduction, Washington State Department of Community, Trade and Economic Development, 1999*